

# EXHIBIT 1



1	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
2	IN AND FOR THE COUNTY OF LOS ANGELES	
3	DEPARTMENT 3	HON. ANA MARIA LUNA, JUDGE

5 IN THE MATTER OF ) CASE NO. BP136769  
6 ) [CONSOLIDATED/RELATED  
7 ) TO 24 CASES]  
8 )  
9 FRANKLIN HENRY MENLO )  
10 IRREVOCABLE TRUST ESTABLISHED )  
11 MARCH 1, 1983 )  
12 \_\_\_\_\_ )  
13 )  
14 LESLIE KLEIN, TRUSTEE, )  
15 )  
16 RESPONDENT, )  
17 )  
18 LES KLEIN & ASSOCIATES, INC., )  
19 )  
20 RESPONDENT. )  
21 \_\_\_\_\_ )

15 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
16 MONDAY, JULY 10, 2023

25 | (APPEARANCES ON FOLLOWING PAGE)

27	REPORTED BY:	JANET MURPHY, CSR NO. 9650 OFFICIAL REPORTER PRO TEMPORE
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1 APPEARANCES:

2

3 FOR PETITIONER CO-TRUSTEE JEFFREY WINTER:

4 WILLKIE FARR & GALLAGHER LLP  
5 BY: ALEX M. WEINGARTEN, ESQ.  
6 STEVEN GOODRICH, ESQ.  
7 2029 CENTURY PARK EAST  
8 SUITE 3400  
9 LOS ANGELES, CALIFORNIA 90067  
10 (310) 855-3000  
11 AWEINGARTEN@WILLKIE.COM  
12 SGOODRICH@WILLKIE.COM

13  
14 FOR PETITIONER CO-TRUSTEE FRANKLIN MENLO AND  
15 NON-WINTER PETITIONERS:

16 DONALD L. SALTZMAN,  
17 PROFESSIONAL LAW CORPORATION  
18 BY: DONALD L. SALTZMAN, ESQ.  
19 10537 BUTTERFIELD ROAD  
20 LOS ANGELES, CALIFORNIA 90064  
21 (310) 617-3073  
22 DLSLAWCORP@AOL.COM

23 FOR FORMER TRUSTEE LESLIE KLEIN:

24 PARKER, MILLIKEN, CLARK,  
25 O'HARA & SAMUELIAN, A PROFESSIONAL  
26 CORPORATION  
27 BY: TERENCE S. NUNAN, ESQ.  
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LOS ANGELES, CALIFORNIA 90071  
(213) 683-6500  
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FOR RESPONDENT LESLIE KLEIN AS AN INDIVIDUAL:

EJOLSONLAW  
BY: ERIC J. OLSON, ESQ.  
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PASADENA, CALIFORNIA 91101  
(626) 224-5619  
ERIC@EJOLSONLAW.COM  
(VIA LA COURT CONNECT)



1 APPEARANCES (CONTINUED):

2

3 FOR MENLO BENEFICIARIES:

4 OLDMAN, COOLEY, SALLUS, BIRNBERG,  
5 COLEMAN & GOLD, LLP  
6 BY: NATHAN TALEI, ESQ.  
7 16133 VENTURA BOULEVARD  
8 PENTHOUSE SUITE A  
9 ENCINO, CALIFORNIA 91436  
10 (818) 986-8080  
11 NTALEI@OCLSLAW.COM  
12 (VIA LA COURT CONNECT)

13 FOR THE CHAPTER 11 BANKRUPTCY TRUSTEE:

14 PACHULSKI STANG ZIEHL & JONES LLP  
15 BY: JEFFREY P. NOLAN, ESQ.  
16 10100 SANTA MONICA BOULEVARD  
17 13TH FLOOR  
18 LOS ANGELES, CALIFORNIA 90067  
19 (310) 277-6910  
20 JNOLAN@PSZJLAW.COM

21 ALSO PRESENT:

22 RAFAEL DEUTSCH

23 LESLIE KLEIN

24 FRANKLIN MENLO

25 JEFFREY WINTER

26 JEREMY WINTER

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M A S T E R I N D E X

VOLUME 1

SESSIONS

MONDAY, JULY 10, 2023

PAGE

P.M. SESSION

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1 CASE NUMBER: BP136769 [CONSOLIDATED/RELATED  
2 TO 24 CASES]  
3 CASE NAME: MENLO, FRANKLIN HENRY  
4 IRREVOCABLE TRUST  
5 LOS ANGELES, CALIFORNIA MONDAY, JULY 10, 2023  
6 DEPARTMENT 3 HON. ANA MARIA LUNA, JUDGE  
7 APPEARANCES: (AS HERETOFORE NOTED.)  
8 REPORTER: JANET MURPHY, CSR NO. 9650  
9 TIME: 1:50 P.M.

10

11

12 THE COURT: LET'S GO TO CALENDAR NUMBERS 5001  
13 THROUGH 5010, WHICH INVOLVE THE ALAN JASON WINTER TRUST,  
14 22STPB07138; EMILY WINTER TRUST, 22STPB07143; THE  
15 AVROMI DEUTSCH TRUST, 22STPB11020; FRANKLIN MENLO TRUST,  
16 BP136769; SARAH ELIZABETH WINTER TRUST, 22STPB07135. I  
17 THINK THAT'S ALL OF THE MATTERS THERE.

18 ALL RIGHT. SO THEN WE HAVE NATHAN TALEI ON  
19 COURT CONNECT IN THESE MATTERS.

20 AND AS I START, WE HAVE COUNSEL TO MY LEFT.

21 AT THE END OF THE TABLE, MR. SALTZMAN, GO  
22 AHEAD AND GIVE YOUR APPEARANCE.

23 MR. SALTZMAN: HI. GOOD MORNING, YOUR HONOR. THIS  
24 IS -- GOOD AFTERNOON, THAT IS. THIS IS DON SALTZMAN ON  
25 BEHALF OF FRANK MENLO AND ALL THE PETITIONERS EXCEPT THE  
26 WINTER PETITIONERS.

27 MR. GOODRICH: GOOD AFTERNOON, YOUR HONOR.  
28 STEVEN GOODRICH ON BEHALF OF CO-TRUSTEE JEFF WINTER AS



1 MR. KLEIN'S LIABILITY WITH RESPECT TO THE 72 TRUST  
2 ACCOUNTINGS.

3 THAT HAS NOT YET HAPPENED, UNDISPUTEDLY.

4 MR. SALTZMAN: IT'S NOT 72. IT'S 24.

5 MR. NUNAN: WELL, THREE TIMES 24 IS 72 THE LAST TIME  
6 I CHECKED.

7 THE COURT: SURCHARGE AS TO EACH OF THE ACCOUNTINGS  
8 FOR EACH OF THE 24.

9 ALL RIGHT. SO LET'S GO AHEAD AND TAKE A  
10 BREAK FOR THE BENEFIT OF THE COURT REPORTER AND COUNSEL.  
11 FIFTEEN MINUTES. WE'LL RESUME AT 3:15.

12 MR. SALTZMAN: THANK YOU, YOUR HONOR.

13 MR. NUNAN: THANK YOU, YOUR HONOR.

14 (A RECESS WAS HELD FROM 2:58 TO 3:29.)

15 MR. WEINGARTEN: I HAVE A PROPOSAL, YOUR HONOR, I'VE  
16 WORKED THROUGH ON THIS END THAT I THINK RESOLVES THE ISSUE.

17 THE COURT: WE'RE BACK ON THE RECORD IN THE MENLO AND  
18 WINTER MATTERS. ALL PARTIES AND THE COUNSEL ARE PRESENT.

19 GO AHEAD, MR. WEINGARTEN.

20 MR. WEINGARTEN: SO ASSUMING IT'S ALL RIGHT WITH  
21 YOUR HONOR, WHAT THE CO-TRUSTEES INTEND TO DO -- YOU'VE  
22 ALREADY GIVEN US THE AUTHORITY TO COLLECT THE MONEY.

23 WE WOULD FILE A MOTION TO PRESENT FOR YOUR  
24 CONSIDERATION AND HOPEFULLY APPROVAL AUTHORIZING A SPECIFIC  
25 DISTRIBUTION PLAN. WE WILL CONCURRENTLY FILE A REQUEST OR  
26 MOTION WITH THE BANKRUPTCY COURT SEEKING RELIEF FROM STAY,  
27 TO THE EXTENT IT'S REQUIRED FOR IMPLEMENTATION OF SAID  
28 DISTRIBUTION PLAN, TO DO A BELTS-AND-SUSPENDERS APPROACH AND



1 RESOLVE IT THAT WAY.

2 MR. SALTZMAN: WELL, YOU KNOW, WE'VE ALREADY FILED --  
3 WE'VE ALREADY FILED -- AND I DIDN'T UNDERSTAND WHEN  
4 MR. NOLAN SAID THIS EARLIER -- WE'VE ALREADY FILED A  
5 PETITION FOR RELIEF FROM STAY. AND MY UNDERSTANDING IS  
6 THAT ON AUGUST 9, THAT'S ONE OF THE ISSUES FOR DECISION.

7 MR. WEINGARTEN: WELL, AND THERE YOU GO. IF IT'S  
8 REDUNDANT, IT'S REDUNDANT AND WE DON'T NEED TO DO IT.

9 BUT IN ANY EVENT, THE PROPOSAL IS TO FILE A  
10 PROPOSED DISTRIBUTION PLAN, YOUR HONOR, AND TO ADDRESS THE  
11 BANKRUPTCY COURT EITHER THROUGH THE PENDING MOTION FOR  
12 RELIEF FROM STAY OR IF A DIFFERENT ONE IS REQUIRED, AND  
13 ADDRESS IT ALL THAT WAY, SO THERE IS NO CONCERN.

14 THE COURT: ALL RIGHT. WELL, I E-MAILED JUDGE KLEIN  
15 TO SEE IF SHE'S AMENABLE TO A DUAL ON-THE-RECORD CONFERENCE  
16 SO MAYBE WE CAN AT LEAST GET THE ISSUE OF THE INSURANCE  
17 MONIES RESOLVED. SO I DID THAT DURING THE BREAK, AMONG SOME  
18 OTHER THINGS.

19 MR. NUNAN: COULD I INQUIRE, IS THAT GOING TO BE JUST  
20 YOU AND HER?

21 THE COURT: NO. IT WILL BE NOTICED AND EVERYBODY CAN  
22 CHOOSE WHERE THEY WISH -- FEEL MORE COMFORTABLE. I'M SURE  
23 MR. NOLAN WOULD MUCH RATHER BE IN THE BANKRUPTCY COURTROOM  
24 RATHER THAN HERE IN STATE COURT.

25 MR. NUNAN: I'VE BEEN TRYING TO PERSUADE HIM IN THE  
26 LAST 10 MINUTES THAT THIS IS REALLY WHERE THE ACTION IS.

27 THE COURT: AND IT'S CONFIRMED HIS DECISION TO STAY  
28 PRACTICING IN BANKRUPTCY, I'M SURE.



1 THE COURT: ALL RIGHT. THANK YOU, COUNSEL.

2 MR. WEINGARTEN: THANK YOU, YOUR HONOR.

3 (PROCEEDINGS CONCLUDED AT 3:38 P.M.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 3

HON. ANA MARIA LUNA, JUDGE

IN THE MATTER OF	)	CASE NO. BP136769
	)	[CONSOLIDATED/RELATED
	)	TO 24 CASES]
	)	
FRANKLIN HENRY MENLO	)	
IRREVOCABLE TRUST ESTABLISHED	)	REPORTER'S CERTIFICATE
MARCH 1, 1983	)	
_____	)	
LESLIE KLEIN, TRUSTEE,	)	
	)	
RESPONDENT,	)	
	)	
LES KLEIN & ASSOCIATES, INC.,	)	
	)	
RESPONDENT.	)	
_____	)	

I, JANET MURPHY, CSR NO. 9650, OFFICIAL  
REPORTER PRO TEMPORE OF THE SUPERIOR COURT OF THE STATE OF  
CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY  
THAT THE FOREGOING PAGES, 1 THROUGH 54, COMPRISE A FULL,  
TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS TAKEN IN THE  
ABOVE-ENTITLED CAUSE ON JULY 10, 2023.

DATED THIS 23RD DAY OF AUGUST, 2023.

*Janet Murphy*

\_\_\_\_\_  
JANET MURPHY, CSR NO. 9650  
OFFICIAL REPORTER PRO TEMPORE



# EXHIBIT 2



Electronically FILED by  
Superior Court of California,  
County of Los Angeles  
8/15/2023 4:10 PM  
David W. Slayton,  
Executive Officer/Clerk of Court,  
By A. Villarino, Deputy Clerk

Alex M. Weingarten (SBN 204410)  
AWeingarten@willkie.com  
Logan M. Elliott (SBN 268105)  
LElliott@willkie.com  
**WILLKIE FARR & GALLAGHER LLP**  
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Facsimile: (310) 855-3099  
  
Attorneys for Petitioner  
CO-TRUSTEE JEFFREY WINTER

**SUPERIOR COURT OF CALIFORNIA**

**COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

In the Matter of

CASE NO.: BP136769<sup>1</sup>  
[Consolidated/Related to 24 Cases]

Assigned for All Purposes to  
Hon. Ana Maria Luna, Dept. 3

FRANKLIN HENRY MENLO  
IRREVOCABLE TRUST ESTABLISHED  
MARCH 1, 1983

**SECOND SUPPLEMENT TO PETITION  
FOR INSTRUCTIONS REGARDING  
DISTRIBUTIONS**

LESLIE KLEIN, TRUSTEE,  
  
Respondent,  
  
LES KLEIN & ASSOCIATES, INC.,  
  
Respondent.

Date: August 18, 2023  
Time: 1:30 p.m.  
Dept.: 3

Action Filed: September 18, 2012

<sup>1</sup> Consolidated/Related to Case Nos.: BP139977; BP139978; BP139999; BP140000; BP140001; BP140002; BP140003; BP140004; BP140005; BP140007; BP140008; BP140009; BP140010; BP140011; BP140012; BP140013; BP140014; BP140015; BP140016; BP140017; BP140018; BP140019; BP140020; and BP154676.



Petitioner Jeffrey Winter (“Jeff”), as Co-Trustee of the Franklin Henry Menlo Irrevocable Trust Established March 1, 1983 (the “Trust”), hereby respectfully supplements his Petition For Instructions Regarding Distributions (“Petition”), filed on July 28, 2023 and joined by Co-Trustee Frank Menlo (“Frank” and collectively with Jeff, “Co-Trustees”), and alleges as follows:

**PRELIMINARY STATEMENT**

1. Jeff (joined by Frank) files this Second Supplement To Petition For Instructions Regarding Distributions (“Second Supplement”) to notify the Court regarding two matters related to the Petition.

2. First, Co-Trustees confirm that in the event the Petition is granted there are adequate reserves set aside for the payment of the various attorneys’ fees and costs requests Leslie Klein (“Klein”) filed in this matter should payment of some or all of these fees be awarded.

3. Second, on August 14, 2023, Jeff filed a motion for relief from stay in the matter of Klein’s Chapter 11 bankruptcy, Case No. 2:23-bk-10990-SK (the “Bankruptcy Matter”), requesting that the bankruptcy court grant temporary relief from stay so that Co-Trustees may make distributions to the Trust beneficiaries in accordance with this Court’s instructions.

**FACTUAL BACKGROUND**

4. Klein filed three separate pleadings requesting attorneys’ fees and costs in this action as follows (together, the “Pending Fee Petitions”) seeking, in total, \$497,794.96.

- On July 20, 2022, Klein filed the Fourth Petition For Approval Of Payment Of Attorneys’ Fees And Costs Incurred By Trustee requesting \$117,975.46 to Parker, Milliken, Clark, O’Hara & Samuelian, APC (“Parker Millken”) for the period March 2021 – May 2021.
- On August 25, 2022, Klein filed the Joinder Of Buchalter To Fourth Petition For Approval Of Payment Of Attorneys’ Fees And Costs Incurred By Trustee requesting \$133,541.64 to Buchalter for the period August 2021 – October 2021 and \$44,290.81 to Buchalter for the period January 2022 – July 2022.



1           •       On September 9, 2022, Klein filed the Petition To Authorize Distribution,  
2                   Appoint Receiver And To Instruct Trustee requesting additional attorneys’ fees  
3                   and costs in the amounts of: (a) \$137,768.35 to Parker Milliken for the period  
4                   December 2021 – February 2022; and (b) \$64,236.70 to Buchalter for the period  
5                   November 2021 – December 2021.

6           5.       On September 6, 2022, Frank and the other Menlo Beneficiaries filed the  
7                   Opposition Of Petitioners To Trustee’s Fourth Petition For Approval Of Payment Of Attorneys’  
8                   Fees And Costs opposing Klein’s fees and costs requests.

9           6.       On September 13, 2022, the Winter Beneficiaries filed the Objections To Fourth  
10                  Petition For Approval Of Payment Of Attorneys’ Fees And Costs Incurred By Trustee uniformly  
11                  objecting to Klein’s requests for fees and costs.

12           7.       On September 15, 2022, the Winter Beneficiaries filed the Objections To Petition  
13                  To authorize Distribution, Appoint Receiver And To Instruct Trustee.

14           8.       On July 27, 2023, Co-Trustees signed an internal distribution agreement  
15                  explaining how proceeds from life insurance policies associated with the Trust were to be  
16                  distributed (“Distribution Agreement”). *See* Pet., Ex. 1.

17           9.       On July 28, 2023, Jeff filed the Petition (which was joined by Frank) to petition  
18                  the Court for instructions confirming the Co-Trustee’s distribution payouts agreed upon in the  
19                  Distribution Agreement and proposed in the Petition. *See generally* Pet.

20           10.      On August 8, 2023, Jeff filed the first Supplement To Petition For Instructions  
21                  Regarding Distribution to inform the Court that the beneficiaries of the life insurance policies  
22                  associated with the Trust (the “Life Insurance Beneficiaries”) are all in agreement with the terms  
23                  of the Distribution Agreement. *See generally* First Suppl. To Pet.

24                                   **ATTORNEYS’ FEES AND COSTS RESERVE**

25           11.      There are adequate trust funds held in reserve (aside from the life insurance  
26                  proceeds at issue in the Petition) to satisfy Klein’s Pending Fee Petitions in the event the Pending  
27                  Fee Petitions are granted in whole or in part. The Trust will have at least \$2,000,000.00 at its  
28



disposal after the distributions proposed in the Petition are made. This amount greatly exceeds the \$497,794.96 sought by Klein.

**MOTION FOR RELIEF FROM STAY**

12. On August 14, 2023, Jeff filed a motion for relief from stay in the Bankruptcy Matter to request relief from the automatic stay imposed on this Court after Klein filed for bankruptcy. Jeff requested temporary relief from stay in order to make distributions to the Life Insurance Beneficiaries and additional Trust beneficiaries in accordance with whatever this Court instructs pursuant to the Petition. The motion for relief from stay was made on the grounds that: (a) Klein has zero interest in or claim to the insurance proceeds Co-Trustees seek to distribute; (b) the insurance funds are not necessary to reorganize the bankruptcy estate; and, alternatively (c) there is cause for relief from stay because the balance of harms weighs against maintaining the stay and prolonging the delay in the Trust beneficiaries receiving their distributions still further. Currently, the motion is set to be heard on September 13, 2023. A true and correct copy of the motion for relief from stay filed in the Bankruptcy Matter on August 14, 2023 is attached hereto as **Exhibit 29**.<sup>2</sup>

**PRAYER FOR RELIEF**

WHEREFORE, Jeffrey Winter, as Co-Trustee of the Trust, prays for relief as follows:

1. For instructions confirming the Co-Trustees' distribution payouts proposed herein for certain beneficiaries of the Trust; and
2. For such other and further relief as the Court deems just and proper.

Dated: August 15, 2023

**WILLKIE FARR & GALLAGHER LLP**

By: 

Alex M. Weingarten

Logan M. Elliott

Attorneys for Petitioner

CO-TRUSTEE JEFFREY WINTER

<sup>2</sup> The motion for relief from stay and supporting documents are attached hereto sans exhibits for ease of review and to avoid an unnecessarily voluminous filing (as all the exhibits were for the benefit of the bankruptcy court and are already part of this Court's record).



**VERIFICATION**

I am a Petitioner in this matter and a Co-Trustee of the Franklin Henry Menlo Irrevocable Trust Established March 1, 1983.

I have read the **SECOND SUPPLEMENT TO PETITION FOR INSTRUCTIONS RE DISTRIBUTIONS** and know its contents.

The matters stated in the foregoing document are true of my own knowledge, or I am informed and believe that such allegations are true, and make such allegations on the basis of my information and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on \_\_\_\_\_, at Los Angeles, California.

DocuSigned by:  
*Jeff Winter*  
5E6847521EB0407

Jeffrey Winter



## Exhibit 29



Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address  Alex M. Weingarten (SBN 204410) AWeingarten@willkie.com WILLKIE FARR & GALLAGHER LLP 2029 Century Park East, Suite 3400 Los Angeles, CA 90067 Telephone: (310) 855-3000 Facsimile: (310) 855-3099  <input type="checkbox"/> <i>Individual appearing without attorney</i> <input checked="" type="checkbox"/> <i>Attorney for: Jeffrey Winter</i>	FOR COURT USE ONLY			
<b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION</b>				
In re:  LESLIE KLEIN          <div style="text-align: right;">Debtor(s).</div>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">           CASE NO.: 2:23-bk-10990-SK            CHAPTER: 11         </td> </tr> <tr> <td style="text-align: center; padding: 10px;"> <b>NOTICE OF MOTION AND MOTION FOR RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. § 362 (with supporting declarations) (ACTION IN NONBANKRUPTCY FORUM)</b> </td> </tr> <tr> <td style="padding: 5px;">           DATE: 09/13/2023            TIME: 8:30 am            COURTROOM: 1575         </td> </tr> </table>	CASE NO.: 2:23-bk-10990-SK CHAPTER: 11	<b>NOTICE OF MOTION AND MOTION FOR RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. § 362 (with supporting declarations) (ACTION IN NONBANKRUPTCY FORUM)</b>	DATE: 09/13/2023 TIME: 8:30 am COURTROOM: 1575
CASE NO.: 2:23-bk-10990-SK CHAPTER: 11				
<b>NOTICE OF MOTION AND MOTION FOR RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. § 362 (with supporting declarations) (ACTION IN NONBANKRUPTCY FORUM)</b>				
DATE: 09/13/2023 TIME: 8:30 am COURTROOM: 1575				
<b>Movant:</b> Jeffrey Winter, Co-Trustee of the Franklin Menlo Irrevocable Trust Established March 1, 1983				

**1. Hearing Location:**

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> 255 East Temple Street, Los Angeles, CA 90012 | <input type="checkbox"/> 411 West Fourth Street, Santa Ana, CA 92701 |
| <input type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills, CA 91367        | <input type="checkbox"/> 1415 State Street, Santa Barbara, CA 93101  |
| <input type="checkbox"/> 3420 Twelfth Street, Riverside, CA 92501                 |  |

2. Notice is given to the Debtor and trustee (*if any*)(Responding Parties), their attorneys (*if any*), and other interested parties that on the date and time and in the courtroom stated above, Movant will request that this court enter an order granting relief from the automatic stay as to Debtor and Debtor's bankruptcy estate on the grounds set forth in the attached Motion.
3. To file a response to the motion, you may obtain an approved court form at [www.cacb.uscourts.gov/forms](http://www.cacb.uscourts.gov/forms) for use in preparing your response (optional LBR form F 4001-1.RFS.RESPONSE), or you may prepare your response using the format required by LBR 9004-1 and the Court Manual.



4. When serving a response to the motion, serve a copy of it upon the Movant's attorney (or upon Movant, if the motion was filed by an unrepresented individual) at the address set forth above.
5. If you fail to timely file and serve a written response to the motion, or fail to appear at the hearing, the court may deem such failure as consent to granting of the motion.
6. ☒ This motion is being heard on REGULAR NOTICE pursuant to LBR 9013-1(d). If you wish to oppose this motion, you must file and serve a written response to this motion no later than 14 days before the hearing and appear at the hearing.
7. ☐ This motion is being heard on SHORTENED NOTICE pursuant to LBR 9075-1(b). If you wish to oppose this motion, you must file and serve a response no later than (*date*) \_\_\_\_\_ and (*time*) \_\_\_\_\_; and, you may appear at the hearing.
- a. ☐ An application for order setting hearing on shortened notice was not required (according to the calendaring procedures of the assigned judge).
- b. ☐ An application for order setting hearing on shortened notice was filed and was granted by the court and such motion and order have been or are being served upon the Debtor and upon the trustee (if any).
- c. ☐ An application for order setting hearing on shortened notice was filed and remains pending. After the court rules on that application, you will be served with another notice or an order that specifies the date, time and place of the hearing on the attached motion and the deadline for filing and serving a written opposition to the motion.

Date: 08/14/2023

WILLKIE FARR & GALLAGHER LLP  
Printed name of law firm (if applicable)

Alex M. Weingarten  
Printed name of individual Movant or attorney for Movant

/s/ Alex M. Weingarten  
Signature of individual Movant or attorney for Movant



## MOTION FOR RELIEF FROM THE AUTOMATIC STAY AS TO NONBANKRUPTCY ACTION

1. **In the Nonbankruptcy Action, Movant is:**

- a. ☐ Plaintiff
- b. ☐ Defendant
- c. ☒ Other (*specify*): Jeffrey Winter, Co-Trustee of the Franklin Menlo Irrevocable Trust Established March 1, 1983

2. **The Nonbankruptcy Action:** There is a pending lawsuit or administrative proceeding (Nonbankruptcy Action) involving the Debtor or the Debtor's bankruptcy estate:

- a. *Name of Nonbankruptcy Action:* In the Matter of The Franklin Menlo Irrevocable Trust Established March 1, 1983
- b. *Docket number:* BP136769
- c. *Nonbankruptcy forum where Nonbankruptcy Action is pending:*  
Superior Court of the State of California, County of Los Angeles
- d. *Causes of action or claims for relief (Claims):*  
Accountings, Surcharge, Indemnification

3. **Bankruptcy Case History:**

- a. ☒ A voluntary ☐ An involuntary petition under chapter ☐ 7 ☒ 11 ☐ 12 ☐ 13  
was filed on (*date*) 02/22/2023.
- b. ☐ An order to convert this case to chapter ☐ 7 ☐ 11 ☐ 12 ☐ 13  
was entered on (*date*) \_\_\_\_\_.
- c. ☐ A plan was confirmed on (*date*) \_\_\_\_\_.

4. **Grounds for Relief from Stay:** Pursuant to 11 U.S.C. § 362(d)(1), cause exists to grant Movant relief from stay to proceed with the Nonbankruptcy Action to final judgment in the nonbankruptcy forum for the following reasons:

- a. ☐ Movant seeks recovery only from applicable insurance, if any, and waives any deficiency or other claim against the Debtor or property of the Debtor's bankruptcy estate.
- b. ☐ Movant seeks recovery primarily from third parties and agrees that the stay will remain in effect as to enforcement of any resulting judgment against the Debtor or bankruptcy estate, except that Movant will retain the right to file a proof of claim under 11 U.S.C. § 501 and/or an adversary complaint under 11 U.S.C. § 523 or § 727 in this bankruptcy case.
- c. ☒ Mandatory abstention applies under 28 U.S.C. § 1334(c)(2), and Movant agrees that the stay will remain in effect as to enforcement of any resulting judgment against the Debtor or bankruptcy estate, except that Movant will retain the right to file a proof of claim under 11 U.S.C. § 501 and/or an adversary complaint under 11 U.S.C. § 523 or § 727 in this bankruptcy case.
- d. ☐ The Claims are nondischargeable in nature and can be most expeditiously resolved in the nonbankruptcy forum.
- e. ☐ The Claims arise under nonbankruptcy law and can be most expeditiously resolved in the nonbankruptcy forum.



- f. ☐ The bankruptcy case was filed in bad faith.
- (1) ☐ Movant is the only creditor, or one of very few creditors, listed or scheduled in the Debtor's case commencement documents.
- (2) ☐ The timing of the filing of the bankruptcy petition indicates that it was intended to delay or interfere with the Nonbankruptcy Action.
- (3) ☐ Multiple bankruptcy cases affect the Nonbankruptcy Action.
- (4) ☐ The Debtor filed only a few case commencement documents. No schedules or statement of financial affairs (or chapter 13 plan, if appropriate) has been filed.
- g. ☒ Other (*specify*):  
The balance of harms weighs against maintaining the stay and towards granting relief as addressed in the attached Memorandum. Additionally, Jeff requests relief from stay under 11 U.S.C. 362(d)(2).

5. **Grounds for Annulment of Stay.** Movant took postpetition actions against the Debtor.

- a. ☐ The actions were taken before Movant knew that the bankruptcy case had been filed, and Movant would have been entitled to relief from stay to proceed with these actions.
- b. ☐ Although Movant knew the bankruptcy case was filed, Movant previously obtained relief from stay to proceed in the Nonbankruptcy Action in prior bankruptcy cases affecting the Nonbankruptcy Action as set forth in Exhibit. \_\_\_\_.
- c. ☐ Other (*specify*):

6. **Evidence in Support of Motion: (*Important Note: declaration(s) in support of the Motion MUST be signed under penalty of perjury and attached to this motion.*)**

- a. ☒ The DECLARATION RE ACTION IN NONBANKRUPTCY FORUM on page 6.
- b. ☐ Supplemental declaration(s).
- c. ☐ The statements made by Debtor under penalty of perjury concerning Movant's claims as set forth in Debtor's case commencement documents. Authenticated copies of the relevant portions of the Debtor's case commencement documents are attached as Exhibit. \_\_\_\_.
- d. ☒ Other evidence (*specify*):  
Exhibits attached to declaration

7. ☒ **An optional Memorandum of Points and Authorities is attached to this Motion.**

**Movant requests the following relief:**

1. Relief from the stay pursuant to 11 U.S.C. § 362(d)(1).
2. ☐ Movant may proceed under applicable nonbankruptcy law to enforce its remedies to proceed to final judgment in the nonbankruptcy forum, provided that the stay remains in effect with respect to enforcement of any judgment against the Debtor or property of the Debtor's bankruptcy estate.
3. ☐ The stay is annulled retroactively to the bankruptcy petition date. Any postpetition acts taken by Movant in the Nonbankruptcy Action shall not constitute a violation of the stay.



4. ☐ The co-debtor stay of 11 U.S.C. § 1201(a) or § 1301(a) is terminated, modified, or annulled as to the co-debtor, on the same terms and condition as to the Debtor.
5. ☒ The 14-day stay prescribed by FRBP 4001(a)(3) is waived.
6. ☒ The order is binding and effective in any bankruptcy case commenced by or against the Debtor for a period of 180 days, so that no further automatic stay shall arise in that case as to the Nonbankruptcy Action.
7. ☒ The order is binding and effective in any future bankruptcy case, no matter who the debtor may be, without further notice
8. ☒ Other relief requested.

Date: 08/14/2023

WILLKIE FARR & GALLAGHER LLP

Printed name of law firm (*if applicable*)

Alex M. Weingarten

Printed name of individual Movant or attorney for Movant

/s/ Alex M. Weingarten

Signature of individual Movant or attorney for Movant



## DECLARATION RE ACTION IN NONBANKRUPTCY FORUM

I, *(name of Declarant)* Alex M. Weingarten, declare as follows:

1. I have personal knowledge of the matters set forth in this declaration and, if called upon to testify, I could and would competently testify thereto. I am over 18 years of age. I have knowledge regarding (Nonbankruptcy Action) because:

- ☐ I am the Movant.
- ☐ I am Movant's attorney of record in the Nonbankruptcy Action.
- ☐ I am employed by Movant as *(title and capacity)*:
- ☒ Other *(specify)*: I am counsel for Jeffrey Winter, Co-Trustee of the Franklin Menlo Irrevocable Trust Established March 1, 1983.

2. I am one of the custodians of the books, records and files of Movant as to those books, records and files that pertain to the Nonbankruptcy Action. I have personally worked on books, records and files, and as to the following facts, I know them to be true of my own knowledge or I have gained knowledge of them from the business records of Movant on behalf of Movant, which were made at or about the time of the events recorded, and which are maintained in the ordinary course of Movant's business at or near the time of the acts, conditions or events to which they relate. Any such document was prepared in the ordinary course of business of Movant by a person who had personal knowledge of the event being recorded and had or has a business duty to record accurately such event. The business records are available for inspection and copies can be submitted to the court if required.

3. In the Nonbankruptcy Action, Movant is:

- ☐ Plaintiff
- ☐ Defendant
- ☒ Other *(specify)*: Jeffrey Winter, Co-Trustee of the Franklin Menlo Irrevocable Trust Established March 1, 1983

4. The Nonbankruptcy Action is pending as:

- a. *Name of Nonbankruptcy Action*: In the Matter of The Franklin Menlo Irrevocable Trust Established March 1, 1983
- b. *Docket number*: BP136769
- c. *Nonbankruptcy court or agency where Nonbankruptcy Action is pending*:  
Superior Court of the State of California, County of Los Angeles

5. **Procedural Status of Nonbankruptcy Action:**

- a. The Claims are:  
with limited exceptions, fully resolved by the Superior Court's adoption of Court-Appointed Referee's 84-page Report & Recommendation on April 24, 2023. Co-Trustees' ability to make distributions was stayed by Debtor's bankruptcy filing.
- b. True and correct copies of the documents filed in the Nonbankruptcy Action are attached as Exhibits 1 through 12 of the Declaration of Alex M. Weingarten In Support Of Motion For Order Granting Relief From Automatic Stay Pursuant to 11 U.S.C. § 362
- c. The Nonbankruptcy Action was filed on *(date)* 09/18/2012.
- d. Trial or hearing began/is scheduled to begin on *(date)* 12/15/2021.
- e. The trial or hearing is estimated to require 1 days *(specify)*.
- f. Other plaintiffs in the Nonbankruptcy Action are *(specify)*:  
Jeffrey Winter and Franklin Menlo, as Co-Trustees, and 24 beneficiaries of the Menlo Family Trusts including the Franklin Menlo Irrevocable Trust Established March 1, 1983



- g. Other defendants in the Nonbankruptcy Action are (*specify*):  
Leslie Klein and Les Klein & Associates, a professional law corporation

6. **Grounds for relief from stay:**

- a. ☐ Movant seeks recovery primarily from third parties and agrees that the stay will remain in effect as to enforcement of any resulting judgment against the Debtor or the Debtor's bankruptcy estate, except that Movant will retain the right to file a proof of claim under 11 U.S.C. § 501 and/or an adversary complaint under 11 U.S.C. § 523 or § 727 in this bankruptcy case.
- b. ☒ Mandatory abstention applies under 28 U.S.C. § 1334(c)(2), and Movant agrees that the stay will remain in effect as to enforcement of any resulting judgment against the Debtor or the Debtor's bankruptcy estate, except that Movant will retain the right to file a proof of claim under 11 U.S.C. § 501 and/or an adversary complaint under 11 U.S.C. § 523 or § 727 in this bankruptcy case.
- c. ☐ Movant seeks recovery only from applicable insurance, if any, and waives any deficiency or other claim against the Debtor or property of the Debtor's bankruptcy estate. The insurance carrier and policy number are (*specify*):
- d. ☐ The Nonbankruptcy Action can be tried more expeditiously in the nonbankruptcy forum.
- (1) ☐ It is currently set for trial on (*date*) \_\_\_\_\_.
- (2) ☐ It is in advanced stages of discovery and Movant believes that it will be set for trial by (*date*) \_\_\_\_\_. The basis for this belief is (*specify*):
- (3) ☐ The Nonbankruptcy Action involves non-debtor parties and a single trial in the nonbankruptcy forum is the most efficient use of judicial resources.
- e. ☐ The bankruptcy case was filed in bad faith specifically to delay or interfere with the prosecution of the Nonbankruptcy Action.
- (1) ☐ Movant is the only creditor, or one of very few creditors, listed or scheduled in the Debtor's case commencement documents.
- (2) ☐ The timing of the filing of the bankruptcy petition indicates it was intended to delay or interfere with the Nonbankruptcy Action based upon the following facts (*specify*):
- (3) ☐ Multiple bankruptcy cases affecting the Property include:
- (A) Case name:  
Case number: Chapter:  
Date filed: Date discharged: Date dismissed:  
Relief from stay regarding this Nonbankruptcy Action ☐ was ☐ was not granted.



(B) Case name:  
Case number: Chapter:  
Date filed: Date discharged: Date dismissed:  
Relief from stay regarding this Nonbankruptcy Action ☐ was ☐ was not granted.

(C) Case name:  
Case number: Chapter:  
Date filed: Date discharged: Date dismissed:  
Relief from stay regarding this Nonbankruptcy Action ☐ was ☐ was not granted.

☐ See attached continuation page for information about other bankruptcy cases affecting the Nonbankruptcy Action.

☐ See attached continuation page for additional facts establishing that this case was filed in bad faith.

f. ☒ See attached continuation page for other facts justifying relief from stay.

7. ☐ Actions taken in the Nonbankruptcy Action after the bankruptcy petition was filed are specified in the attached supplemental declaration(s).

a. ☐ These actions were taken before Movant knew the bankruptcy petition had been filed, and Movant would have been entitled to relief from stay to proceed with these actions.

b. ☐ Movant knew the bankruptcy case had been filed, but Movant previously obtained relief from stay to proceed with the Nonbankruptcy Action enforcement actions in prior bankruptcy cases affecting the Property as set forth in Exhibit \_\_\_\_\_

c. ☐ For other facts justifying annulment, see attached continuation page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

08/14/2023  
Date

Alex M. Weingarten  
Printed name

/s/ Alex M. Weingarten  
Signature



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**MEMORANDUM OF POINTS AND AUTHORITIES**

Jeffrey Winter (“Jeff”),<sup>1</sup> co-trustee of the Menlo trusts (the “Menlo Trusts”), as a holder of claims against Leslie Klein (the “Debtor” and “Klein”), hereby respectfully submits this Memorandum of Points and Authorities (the “Memorandum”) in support of the *Motion for Relief From The Automatic Stay Under 11 U.S.C. § 362* (the “Motion”). Jeff seeks entry of an order granting relief from the automatic stay pursuant to section 362(d) of title 11 of the United States Code (the “Bankruptcy Code”) to proceed under applicable nonbankruptcy law to allow the nonbankruptcy forum to provide Jeff and co-trustee Frank Menlo (“Frank”) (together, “Co-Trustees”) with instructions confirming co-trustees’ distributions of proceeds from life insurance policies to beneficiaries of the Menlo Trusts as reflected in a distribution agreement between Co-Trustees (“Distribution Agreement”). Jeff also requests that the order be binding and effective in any bankruptcy case commenced by or against the Debtor for a period of 180 days.

**PRELIMINARY STATEMENT**

Co-Trustees seek to distribute specific payouts of life insurance proceeds to certain beneficiaries of the Menlo Trusts who have long been prevented from receiving their rightful distributions by Klein’s rampant embezzlement and repeated abuses of process. Jeff lays out Co-Trustees’ agreement to distribute these specific payouts in great detail in the Distribution Agreement between Jeff and Frank and in the petition for instructions Jeff filed (and Frank joined) in the Nonbankruptcy Action<sup>2</sup> on July 28, 2023 to confirm Co-Trustees’ agreement (“Petition for Instructions”). *See* Declaration of Alex M. Weingarten (“Weingarten Decl.”), Ex. 1. Co-Trustees Jeff and Frank and are in complete agreement regarding the distribution payments each beneficiary is to receive, and the terms of their agreement are memorialized in the Distribution Agreement and the Petition for Instructions. Moreover, Klein has no legitimate interest in the life insurance funds Co-Trustees seek to distribute – and admits as much in his June 28, 2023 declaration. The life insurance proceeds Co-Trustees seek to distribute are in no way, shape, or form part of the

<sup>1</sup> Members of the Winter and Menlo families are referred to by their first names “for the purposes of clarity, not out of disrespect.” *See Young v. McCoy*, 147 Cal. App. 4th 1078, 1081 n.2. (2007).

<sup>2</sup> Nonbankruptcy Action is defined in the Motion to be *In the Matter of Franklin Henry Menlo Irrevocable Trust vs. Klein*, No. BP-136769 (Cal. Supp. Ct. Sept. 18, 2012).



1 bankruptcy estate. Klein merely seeks to delay the inevitable judgment against him and rightful  
2 distributions to the Menlo Trust beneficiaries with this bankruptcy filed in bad faith.

3 The Court should put a stop to Klein’s tactics and lift the stay to allow Co-Trustees’  
4 distributions to the Menlo Beneficiaries for multiple reasons:

5 • First, Section 362(d)(2) requires the Court to lift an automatic stay with respect to  
6 a property if: (1) the debtor does not have equity in such property; and (2) such property is not  
7 necessary to an effective reorganization. Klein has no claim (and, indeed, makes no such claim)  
8 to the life insurance proceeds Co-Trustees propose to distribute in the Petition for Instructions.  
9 And, the life insurance policies belonging to the Menlo Trusts and their beneficiaries are not part  
10 of the bankruptcy estate and are unnecessary to an effective reorganization of the estate.

11 • Second, Section 362(d)(1) permits the Court to lift an automatic stay “for cause.”  
12 Granting relief from stay will prevent this Court from having to rule on specialized areas of probate  
13 law and from interfering with factual and legal issues already decided in the nonbankruptcy forum,  
14 the Superior Court of California, County of Los Angeles (the “Superior Court”). The Superior  
15 Court already decided the beneficiaries of the Menlo Trusts were entitled to certain distributions  
16 from the Menlo Trusts and that Klein wrongfully withheld such distributions in the Nonbankruptcy  
17 Action. *See* Weingarten Decl., Ex. 7 at 4:1-3, n.4, 9:11-10:27; Ex. 8. The distributions Jeff and  
18 Frank now seek to provide to the beneficiaries must be confirmed by the Superior Court – and  
19 there is no reason to delay distributing these long overdue amounts now to the beneficiaries. The  
20 Motion should be granted.

21 **FACTUAL BACKGROUND**

22 **Sam And Vera Menlo Establish Trusts For The Benefit Of Their Family**

23 Sam Menlo (“Sam”) and Vera Menlo (“Vera”) married in 1956. *See* Dkt. No. 84,  
24 Declaration of Paul P. Young (“Young Decl.”), Ex. 2. During their lifetime together, Sam and  
25 Vera amassed significant wealth and had five children: Frank, Deborah Menlo Deutsch, Norine  
26 Eve Menlo, Judith Menlo Frankel, and Madeline Menlo Lipschitz. *See generally id.* Together as  
27 Trustors, Sam and Vera established at least ninety-six irrevocable trusts for each of their children,  
28



grandchildren, and future generations including the twenty-four trusts at issue in the Nonbankruptcy Action (collectively, the “Menlo Trusts”). *Id.*

Klein served as sole trustee of the Menlo Trusts since their inception until his suspension by Judge Luna in the Nonbankruptcy Action on September 16, 2022. *Id.*

**Twenty-Four Beneficiaries Of The Menlo Trusts Initiate The Nonbankruptcy Action To Stop Klein’s Theft Of Trust Assets**

Klein is a licensed attorney with a long and proven history of professional misconduct, including misappropriation and commingling of client funds. *See* Dkt. No. 84, Young Decl., Ex. 3. As a result, the State Bar of California suspended Klein’s law practice license in 1992 and again in 1995. *Id.*

Klein applied his honed embezzlement skills in the course of his stewardship of the Menlo Trusts. *See id.*, Ex. 4. On September 18, 2012, Frank filed a petition on behalf of similarly situated Menlo Trusts beneficiaries (the “Menlo Beneficiaries”) against Klein, requesting Klein’s removal as trustee, an accounting, and a surcharge. *See id.* On March 22, 2013, twenty-four Menlo Beneficiaries filed separate petitions on behalf of their trusts that were ultimately consolidated in Department 3 of the Superior Court. *See id.*, Ex. 5. The beneficiaries contend that Klein breached his fiduciary duties as trustee by, among other things, misappropriating millions of dollars of funds and assets and establishing lines of credit using the trusts as collateral for his own use and benefit. *Id.*

**Judge Reiser Finds Klein Committed Staggering Embezzlement In This Case And Orders A \$30,401,823 Surcharge Against Klein**

Klein submitted numerous erroneous, incomplete, and misleading accountings in violation of his fiduciary duties between 2013 and 2018. *See id.*, Ex. 6. On September 15, 2021, the Superior Court appointed the Hon. Glen M. Reiser (Ret.) as referee (the “Referee”) under Civil Procedure Code Section 639(a)(1) to conduct consecutive trials on Klein’s pending accounting petitions in the Nonbankruptcy Action (the “Accounting Trials”). *See id.*, Ex. 7. The September 15 appointment permitted the Referee to decide the amounts of surcharge resulting from a review



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1 of Klein’s accountings including enhanced damages under Probate Code Sections 850 and 859.  
2 *Id.*

3 On August 29, 2022, Judge Reiser issued his report and recommendation (the “R&R”) following trials held from December 15, 2021 through March 30, 2022. *See id.*, Ex. 1. Following  
4 Judge Reiser’s consideration of “thousands of pages of documentary exhibits beyond the accounts  
5 themselves,” expert forensic accounting testimony, and testimony from Klein himself, Judge  
6 Reiser excoriated Klein for his wanton theft of trust assets. *Id.* at 16:19–20. Judge Reiser found:

8 [T]hat through an elaborate scheme to pay himself by co-mingling assets;  
9 cross-borrowing among 24 [t]rusts; taking loans against trust assets and cross-  
10 paying debts—filtered with stunning frequency through Klein’s personal and  
11 business accounts with multiple other sources of income and receipts and  
outgoing payments, Klein was able to collectively embezzle millions of  
dollars from the Menlo Trusts.

12 *Id.*, ¶¶ 48:11–15. Judge Reiser determined that Klein maximized his commingling of trust  
13 accounts “to render the scope and breadth of Klein’s misappropriations incalculable and  
14 untraceable.” *Id.* at 30 n.31. Judge Reiser further found that, among other conduct, Klein  
15 “borrowed many millions of dollars against [t]rust assets as to which he has never shown any  
16 interest in repaying” and “torpedoed \$20,000,000 in valuable [t]rust life insurance policies because  
17 of his compulsion to divert Menlo Trust[s] assets for non-[t]rust purposes for no legitimate reason.”  
18 *Id.* at 78:17-79:8.

19 Judge Reiser also found that Klein embezzled the principal sum of \$19,225,065 based on  
20 Klein’s proven theft of Menlo Trusts assets. *Id.* at 78:20–21. Ultimately, Judge Reiser  
21 recommended that Klein should be surcharged for his theft in the amount of \$30,401,823 including  
22 double damages under Probate Code Section 859 which imposes enhanced damages based on the  
23 “bad faith” concealment of trust property. *Id.* at 55:6–56:2. Judge Reiser further determined that  
24 Klein’s removal “appears to be a *fait accompli*” under the circumstances. *Id.* at 22:25–27. There  
25 is legitimate risk that Klein will conceal or disappear with the money he embezzled from the Menlo  
26 Trusts now that his scheme has been exposed. *See id.*



**The Superior Court Suspends Klein As Trustee And Appoints Jeffrey Winter And Frank Menlo As Interim Co-Trustees**

On September 15, 2022, the Menlo Beneficiaries, represented by Willkie Farr & Gallagher LLP, filed *ex parte* applications for a temporary restraining order to suspend Klein as trustee. *Id.*, Ex. 8. The applications were premised on Judge Reiser’s irrefutable findings in the R&R that Klein embezzled millions of dollars, refused to comply with the terms of the Trust, wasted \$20,000,000 in valuable life insurance policies, and engaged in a deceptive ploy to conceal millions of dollars of fiduciary breaches. *Id.*

On September 16, 2022, the Superior Court suspended Klein as trustee of the Menlo Trusts and appointed Jeff and Frank as “Co-Trustees” of the Menlo Trusts. *Id.*, Ex. 9. In so ruling, the Superior Court relied on the Menlo Beneficiaries’ argument in their *ex parte* suspension applications that they have a strong probability of success on the merits of their breach of fiduciary duty claim. *Id.*

**Co-Trustees File An Application For Writ Of Attachment And Right To Attach Order Which Klein Schemes To Avoid<sup>3</sup>**

On October 19, 2022, the Co-Trustees, on behalf of the Menlo Beneficiaries, brought an application for a right to attach order and a writ of attachment to attach \$19,225,064 to ensure that Klein does not disappear with the money he stole from the Menlo Trusts (“Attachment Application”). *Id.*, Ex. 10. The Co-Trustees’ Attachment Application seeks to attach Klein’s nonexempt property, including, but not limited to, Klein’s real property, personal property, equipment, motor vehicles, chattel paper, negotiable and other instruments, securities, deposit accounts, safe deposit boxes, accounts receivable, and general intangibles. *See id.*

On November 10, 2022, the Superior Court issued a temporary protective order (the “TPO”) in the interim “in the interest of equity and justice” to prevent Klein from taking further

---

<sup>3</sup> On April 25, 2023, Frank Menlo (Co-Trustee of the Menlo Trusts) filed a motion for relief from stay in this action seeking temporary relief from the bankruptcy stay so that Frank’s outstanding nondischargeable claims against Klein could be resolved in the nonbankruptcy forum. *See* Dkt. No. 84. That motion recounts in even greater detail Klein’s established wrongdoing and schemes to sell properties to avoid attachment. Frank’s motion for relief from stay has been fully briefed and is still pending before this Court.



1 steps to “transfer, sell, dispose of, encumber or hypothecate any non-exempt property owned by  
2 him” and thereby render himself judgment-proof. *See id.*, Ex. 13.

3 That same day (November 10, 2022), Co-Trustees were informed that Klein attempted to  
4 sell two residential properties in which he has an interest at a substantial discount. *See id.*, Ex. 14.  
5 On November 11, 2022, Alex M. Weingarten, counsel for Jeff, sent Klein’s representative a letter  
6 requesting that he cease any attempted sales of Klein’s properties in light of the November 10  
7 TPO. *See id.*, Ex. 15. To date, the Co-Trustees have received no assurances that Klein has  
8 refrained from selling any of the affiliated assets to avoid judgment in the Nonbankruptcy Action.  
9 *See id.* In fact, as Klein continued the same pattern of behavior, the Superior Court issued multiple  
10 orders to prevent Klein from disposing of his property including an Attachment Application for  
11 \$19,255,064. *See id.*, Ex. 22.

12 **Jeff Actively Pursued The Writs Of Attachment Prior To The Bankruptcy Stay**

13 Jeff worked diligently to effectuate the writs of attachment after the Superior Court granted  
14 the Attachment Application on January 3, 2022 and before Klein filed for bankruptcy on February  
15 22, 2023. *See id.*, Ex. 25. Among other things, counsel worked to prepare each of the required  
16 sheriff’s instructions for the process server in compliance with each county sheriff’s widely  
17 differing requirements (including incorporating assessor maps and title information) so that the  
18 writs can be noticed and served as soon as they are executed by the clerk. *See id.* While this was  
19 going on, Klein, on February 22, commenced with this Court a voluntary case under chapter 11 of  
20 title 11 of the United States Code. *See* Dkt. No. 1.

21 Due to the imposition of the automatic stay, the corrected writs of attachment have not  
22 been served, and the Nonbankruptcy Action cannot proceed to judgment. *See id.*; *see also*  
23 Weingarten Decl., Ex. 3.

24 **The Superior Court Formally Adopts The R&R**

25 On April 24, 2023, the Superior Court adopted the findings in Judge Reiser’s R&R  
26 “without modification.” *See id.*, Ex. 4 at 12. The Superior Court also removed Klein as Trustee  
27 of the Trust. *See id.*, Ex. 5 at 5.  
28



**The Superior Court Allows Distribution Of Insurance Proceeds To Co-Trustees**

On May 12, 2023, the Menlo Beneficiaries filed a motion to remove the freeze on the Menlo Trust’s accounts and life insurance policies (“Motion to Unfreeze”) in the Nonbankruptcy Action arguing that the freeze on trust accounts and life insurance policies should be removed and distributions to the beneficiaries should be allowed pursuant to the terms of the relevant trusts in this proceeding. *See id.*, Ex. 6. These life insurance policies are included within the Menlo Trusts’ assets and include: (1) American General Policy # A10159602L totaling \$14,000,010; (2) American General Policy # A10162551L totaling \$7,901,647.00; and (3) Lincoln National Policy # G1618958 totaling \$8,398,275.00.

On June 5, 2023, the Motion to Unfreeze came on for hearing. *See id.*, Ex. 8. Following the hearing, the Superior Court granted the Motion to Unfreeze and ordered that the trust accounts and insurance proceeds at issue should be unfrozen and released only to the Co-Trustees (and not the trust beneficiaries). *See id.* at 2:5-15. The Superior Court also made clear that funds “shall not be disbursed to any trust beneficiary without further Order of the Court.” *See id.* at 2:6-8, 14-15.

**Klein Admits He Is Not Entitled To The Life Insurance Proceeds**

On June 28, 2023, Klein filed a declaration in the Nonbankruptcy Action falsely stating he did not let insurance policies lapse (contrary to Judge Reiser’s findings in the R&R) and arguing that only the amounts he “borrowed” from certain beneficiaries to pay insurance premiums be distributed back to them. *See id.*, Ex. 9. Klein submitted no evidence in support of his claims. *See id.*

On July 6, 2023, counsel for the bankruptcy trustee, Bradley D. Sharp, filed a response in the Nonbankruptcy Action stating that no distributions should be disbursed until Klein made “appropriate disclosures” in response to the trustee’s requests and/or the trustee had opportunity to look into the matter further. *See id.*, Ex. 10. Sharp’s response has no bearing on the bankruptcy estate because the additional documentation he is requesting does not exist. *See id.*, Ex. 7 at 19:14-24, 22:11-25:9; Ex. 9; Ex. 11, ¶¶ 6-7; Ex. 12. Klein has not produced *any* documents in a decade of ongoing litigation showing that he or any other third parties are entitled to the funds Co-Trustees are now proposing to distribute to the beneficiaries. *See id.*



On July 7, 2023, counsel for the Menlo Beneficiaries, Donald Saltzman, filed a declaration in the Nonbankruptcy Action in opposition to the declaration from Klein and the response from the bankruptcy trustee arguing that Klein’s declaration was nonsense and should be disregarded because: (1) Klein submitted no evidence in support (and also did not argue these positions at trial); (2) Klein actually did not claim that any of the insurance funds belong to him or any non-beneficiary third party; and (3) funds belonging to the beneficiaries should be disbursed to them without further delay. *See id.*, Ex. 11.

On July 9, 2023, Klein’s counsel, Eric Olson, filed a declaration in the Nonbankruptcy Action *admitting* that Klein has no interest in the life insurance proceeds and “did not make a claim personally to the insurance proceeds[.]” *See id.*, Ex. 12, ¶ 6. Klein again submitted no evidence that unnamed third parties might have claims to the insurance proceeds. *See generally id.*, Ex. 12.

**Jeff Files Petition For Instructions In Nonbankruptcy Action To Disburse Life Insurance Proceeds To Certain Trust Beneficiaries**

On July 27, 2023, Jeff and Frank signed the Distribution Agreement memorializing the terms of their agreement to make life insurance payout distributions in specific amounts to both: (1) trust beneficiaries who were originally beneficiaries of the life insurance policies within the Menlo Trusts (“Life Insurance Beneficiaries”); and (2) additional trust beneficiaries. *See id.*, Ex. 1 at Ex. 1.

On July 28, 2023, Jeff filed a petition for instructions regarding distributions in the Nonbankruptcy Action to request instructions from the Superior Court confirming the Co-Trustees’ distributions payouts agreed upon in the Distribution Agreement (“Petition for Instructions”). *See id.*, Ex. 1. In summary, the Co-Trustees first propose in the Petition for Instructions to pay off the lines of credit extended to the trust by certain trust beneficiaries (specifically, Frank, Deborah Deutsch, Madeline Lipschutz, and Judith Frankel). *See id.*, ¶ 19(b). Co-Trustees then propose to make life insurance payout distributions (in amounts specifically recorded in the Distribution Agreement and Petition for Instructions) to both the Life Insurance Beneficiaries and additional trust beneficiaries. *See id.*, ¶ 19(c)-(d). The Distribution



1 Agreement between Co-Trustees is attached to the Petition for Instructions as Exhibit 1. *See id.*,  
2 Ex. 1 at Ex. 1.

3 On August 8, 2023, Jeff filed a supplement to the Petition for Instructions showing that  
4 all the Life Insurance Beneficiaries consented to the terms of the Distribution Agreement and  
5 agreed to the specific distributions of funds proposed by Co-Trustees in the Distribution  
6 Agreement and Petition for Instructions. *See id.*, Ex. 2.

7 **RELIEF REQUESTED**

8 By this motion, Jeff seeks entry of an order granting him relief from the automatic stay  
9 pursuant to section 362(d) of the bankruptcy code to allow him to proceed under applicable  
10 nonbankruptcy law to allow the nonbankruptcy forum to provide Co-Trustees with instructions  
11 confirming co-trustees' distributions of life insurance policies to beneficiaries of the Menlo  
12 Trusts as reflected in the Distribution Agreement between Co-Trustees. Jeff also requests that  
13 the order be binding and effective in any bankruptcy case commenced by or against the Debtor  
14 for a period of 180 days, so that no further automatic stay shall arise in that case in the  
15 Nonbankruptcy Action.

16 **JURISDICTION**

17 The Court has jurisdiction over the motion pursuant to 28 U.S.C. §§ 157 and 1334.  
18 Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The matter is a core proceeding  
19 pursuant to 28 U.S.C. § 157(b)(2)(a), and this Court has subject matter jurisdiction to enter  
20 findings of fact and conclusions of law and a final judgment. The statutory predicate for the  
21 relief sought herein is section 362(d) of the Bankruptcy Code.

22 **ARGUMENT**

23 Under the Bankruptcy Code, “[o]n request of a party in interest and after notice and a  
24 hearing, the court shall grant relief from the stay . . . such as by terminating, annulling,  
25 modifying, or conditioning such stay . . . with respect to a stay of an act against property[.]” 11  
26 U.S.C. § 362(d)(2). Courts *must* grant relief from stay under § 362(d)(2) if two conditions apply:  
27 (1) the debtor does not have an equity in the property in question; and (2) such property is not  
28 necessary to an effective reorganization of the bankruptcy estate. *See, e.g., In re Tri-Growth*



1 *Centre City, Ltd.*, 136 B.R. 848, 849-850 (Bankr. S.D. Cal. 1992) (granting motion for relief  
2 from stay where debtor had insufficient interest in motel property and failed to carry its burden to  
3 demonstrate that the motel could be effectively used to reorganize).

4 Moreover, “[t]he bankruptcy court generally has broad discretion in granting relief from  
5 stay for cause under § 362(d).” *In re Edwards*, 454 B.R. 100, 107 (B.A.P. 9th Cir. 2011); *see*  
6 *also* 11 U.S.C. § 362(d)(1). “Exercising discretion in determining cause for stay relief requires  
7 the balancing of hardships and consideration of totality of the circumstances.” *See In re Avila*,  
8 311 B.R. 81, 83-84 (Bankr. N.D. Cal. 2004) (citing *In re Kennedy*, 165 B.R. 488, 490 (Bankr.  
9 W.D. Wash. 1994)); *In re Conejo Enters., Inc.*, 96 F.3d 346, 352 (9th Cir. 1996) (“‘Cause’ has  
10 no clear definition and is determined on a case-by-case basis.”).

11 Relief from stay must be granted under Section 362(d)(2) because: (1) Klein does not  
12 have an equity or, indeed, any interest whatsoever in the life insurance proceeds Co-Trustees  
13 seek to distribute; and (2) the life insurance funds are not necessary to an effective reorganization  
14 of the estate because they are not part of the bankruptcy estate. Alternatively, relief from stay  
15 should be granted for cause under Section 362(d)(1) because the Superior Court is the  
16 appropriate venue to confirm distributions to the beneficiaries, the continued litigation in the  
17 Superior Court will not interfere with the bankruptcy case or prejudice the interests of any  
18 interested parties, the Menlo Beneficiaries’ interests will be resolved most expeditiously in the  
19 Superior Court, and the Menlo Beneficiaries will be more hurt by the stay than Klein or any  
20 other interested party will be by temporary relief.

21 **I. RELIEF FROM STAY MUST BE GRANTED UNDER SECTION 362(D)(2)**

22 The Court must grant relief from stay under § 362(d)(2). First, Klein has no interest or  
23 equity in the property (specifically, the life insurance policies within the Menlo Trusts) that Co-  
24 Trustees seek to distribute to the Menlo Beneficiaries. Second, the life insurance proceeds are  
25 not necessary to a reorganization of the bankruptcy estate.



A. **Klein Has No Right To Or Interest In The Life Insurance Proceeds Co-Trustees Seek To Distribute**

The Court is required to grant stay relief to the movant if, “with respect to a stay of an act against property under” section 362(a), the debtor lacks an equity in the property. *See Tri-Growth*, 136 B.R. at 850 (holding that “equity” for purposes of determining whether creditor is entitled to relief from stay is “the difference between the value of the debtor’s interest in the property and the total of all encumbrances against it”).

The Menlo Beneficiaries are the rightful beneficiaries of the Menlo Trust assets including the proceeds of the life insurance policies within the Menlo Trusts. Jeff and Frank, as Co-Trustees of the Menlo Trusts, agreed to distribute the proceeds of three of these policies – two separate American General policies and a Lincoln National policy – among the original life insurance beneficiaries under the policies and additional Menlo Trust beneficiaries. The exact terms of Co-Trustees’ agreement are detailed in the Distribution Agreement attached to Jeff’s Petition for Instructions filed in the Superior Court on July 28, 2023. *See Weingarten Decl.*, Ex. 1 at Ex. 1.

There is no evidence whatsoever that Klein has any equity in the life insurance proceeds because he has zero legitimate interest in or right to that property. *See id.*, Ex. 7 at 19:14-24, 22:11-25:9; Ex. 9; Ex. 11, ¶¶ 6-7; Ex. 12, ¶ 6. Klein for the first time on June 5, 2023 (after over a decade of litigation regarding the Menlo Trusts) argued without substantiating evidence that “potentially all sorts of ancillary claims” to the insurance proceeds existed from third parties or from Klein himself. *See id.*, Ex. 7 at 10:12-28. Klein was unable to provide any evidence supporting his arguments at hearing. Then, after the Court gave him more time to provide the “underlying documents,” Klein filed a June 28, 2023 declaration *without supporting documentation*. *See id.*, Ex. 9. Instead, he claimed (falsely and without evidence) that only amounts he “borrowed” from certain beneficiaries to pay insurance premiums should be distributed back to them. *See id.*, Ex. 9, ¶ 6. Klein has been given ample opportunity to provide documents supporting any interest he has in the life insurance policies, and he has produced



nothing. The bankruptcy trustee’s request for “appropriate disclosures” is futile (as Klein has nothing more to disclose) and should not preclude the relief Jeff is seeking from being granted.

Significantly, Klein does not even claim that the insurance funds belong to him or any non-beneficiary third party (as Saltzman points out in his July 7, 2023 declaration). *See id.*, Ex. 9; Ex. 11, ¶¶ 6-7. Olson flatly admits in his July 9, 2023 declaration that Klein “did not make a claim personally to the insurance proceeds.” *See id.*, Ex. 12, ¶ 6. And, Klein fails to name any non-beneficiary third party who might have an interest or provide any evidence supporting such a third party claim. *See id.*, Exs. 9, 11, 12. Moreover, any amounts of the life insurance proceeds Klein “borrowed” or to which he might claim any right were procured via fraud and embezzlement as has already been determined by Judge Reiser in the eighty-four page R&R and adopted by Judge Luna in the Superior Court. *See* Dkt. No. 84, Young Decl., Ex. 1; Weingarten Decl., Ex. 11. There is no legitimate reason to further delay distribution of the proceeds to the Menlo Beneficiaries.

**B. The Life Insurance Proceeds Are Unnecessary For Effective Reorganization Of The Bankruptcy Estate**

The Court must grant relief from stay under § 362(d)(2) because the life insurance policies within the Menlo Trusts that Co-Trustees seek to distribute to the Menlo Beneficiaries are not part of the bankruptcy estate and are, therefore, not necessary to an effective reorganization of the estate. Klein does not even attempt to lay claim to most of the \$30 million Co-Trustees aim to distribute to beneficiaries with the Petition for Instructions and Distribution Agreement.

The Court is required to grant stay relief to the movant if, “with respect to a stay of an act against property under” section 362(a), the property is not “necessary to an effective reorganization.” *See Tri-Growth*, 136 B.R. at 850 (citing Section 362(d)(2)). The party opposing the motion bears the burden to show that the property is necessary to a reorganization that is “in prospect.” *See In re A Partners, LLC*, 344 B.R. 114, 126 (Bankr. E.D. Cal. 2006) (citing *United Sav. Ass’n of Texas v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 375-



76 (1988)) (holding that “in prospect” means there must be “a reasonable possibility of a successful organization within a reasonable time”).

Klein cannot and does not claim the life insurance policies as part of the bankruptcy estate (much less establish that they are essential to a reorganization of the estate). *See* Weingarten Decl., Exs. 9, 12. At most, Klein claims that approximately \$6 million related to life insurance policies belong to certain beneficiaries (from whom he “borrowed” to pay insurance premiums or attorneys’ fees), but Klein does not claim that these funds belong to him or to another non-beneficiary third party (and, thus, does not claim these funds as part of the bankruptcy estate). *See id.*, Exs. 9, 11, 12. The funds belong to the Menlo Trust beneficiaries. *See id.*, Exs. 1-2. Moreover, Klein has produced zero evidence to support his claims that these funds might belong to unnamed non-beneficiary third parties even after the bankruptcy trustee requested that he do so both at a June 5, 2023 hearing in the Superior Court and in Sharp’s July 6, 2023 response to Klein’s declaration (notably, neither Klein’s nor Olson’s declarations included supporting documentation). *See generally id.*, Exs. 7, 9-12. Needless to say, property that is not claimed to be part of the bankruptcy estate is not necessary to an effective reorganization of the estate.

**II. ALTERNATIVELY, THE COURT MAY GRANT RELIEF FROM STAY UNDER SECTION 362(D)(1) BECAUSE SUFFICIENT “CAUSE” EXISTS FOR RELIEF**

The Court should grant relief from stay “for cause” under § 362(d)(1) as the balance of harms if the case remains stayed weighs in favor of the Menlo Beneficiaries and against Klein.

The Court has broad discretion in granting relief from stay for cause under § 362(d). *See In re Edwards*, 454 B.R. at 107. The party seeking relief from stay must first establish a prima facie case that “cause” exists. *See In re Am. Spectrum Realty, Inc.*, 540 B.R. 730, 737 (Bankr. C.D. Cal. 2015) (holding cause for relief from stay existed because the balance of factors weighed in favor of granting relief from stay). The burden shifts to the debtor to show that relief from the stay is unwarranted once the movant’s prima facie case has been established. *See id.* (“The discretion whether to grant or deny stay relief is within the broad discretion of the bankruptcy court.”).



Courts will consider a number of non-exclusive factors to determine whether due “cause” warrants relief from stay including, but not limited to: (1) whether there is lack of any connection or interference with the bankruptcy case; (2) whether the litigation in another forum would prejudice the interests of other creditors and other interested parties; (3) the interests of judicial economy and the expeditious and economical determination of litigation for the parties; and (4) the impact of the stay on the parties and the “balance of hurt.” *See In re Am. Spectrum Realty*, 540 B.R. at 737.

Myriad non-exclusive factors weigh in favor of relief from stay including:

- The Superior Court is the appropriate venue to confirm distributions to the beneficiaries. Judge Luna in the Superior Court is well-versed in probate-specific issues and familiar with the facts of a decade-long drawn-out and complicated litigation. *See, e.g.,* Weingarten Decl., Exs. 4-5.
- The continued litigation in the Superior Court for the purposes of distributing life insurance proceeds to the Menlo Beneficiaries pursuant to the terms of the Distribution Agreement and Petition for Instructions will not interfere with the bankruptcy case. The life insurance proceeds are not part of the bankruptcy estate and will not impact or interfere with any reorganization of the bankruptcy estate. *See id.*, Ex. 11, ¶¶ 10-13.
- Lifting the stay for the purposes of making life insurance distributions will not prejudice the interests of Klein or any interested parties. The Menlo Beneficiaries are the only parties entitled to these distributions as both Co-Trustees of the Menlo Trusts. Klein has no interest in these distributions nor does he claim such an interest in his June 28, 2023 declaration or Olson’s July 9, 2023 declaration (on behalf of himself or any non-beneficiary third party). *See id.*, Exs. 9, 12.
- Finally, the Menlo Beneficiaries’ interests will be resolved most expeditiously in the Superior Court. Klein has drawn this litigation out for over a decade during which time the Menlo Beneficiaries have received zero distributions. Now he is attempting to stall the litigation still further by filing for bankruptcy in bad faith. *See* Dkt. No. 84. The Menlo Beneficiaries will suffer greater prejudice from the stay and continued lack of distributions than Klein or any other



1 interested party will suffer by temporary relief from the stay because neither Klein nor any other  
2 third party has any legitimate interest in these distributions. *See* Weingarten Decl., Exs. 9, 11-  
3 12.

4 There is no legitimate reason to further delay the beneficiaries' distributions of the life  
5 insurance proceeds.

6 **CONCLUSION**

7 Based on the foregoing, the Motion should be granted.

8 Dated: August 14, 2023

**WILLKIE FARR & GALLAGHER LLP**

9  
10 By: /s/ Alex M. Weingarten  
11 Alex M. Weingarten  
12 Logan M. Elliott  
13 Attorneys for Petitioner  
14 CO-TRUSTEE JEFFREY WINTER  
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**DECLARATION OF ALEX M. WEINGARTEN**

I, Alex M. Weingarten, declare as follows:

1. I am an attorney licensed to practice before the courts of the State of California and am a partner of Willkie Farr & Gallagher LLP, attorneys of record for Petitioner Jeffrey Winter (“Winter”), Co-Trustee of the twenty-four irrevocable trusts at issue in this action (“Menlo Trusts”). I have personal knowledge of the facts set forth herein, or know of such facts by reason of my inspection of the records maintained by Willkie Farr & Gallagher LLP in the ordinary course of business, and could and would competently testify thereto if asked to do so.

2. I make this declaration in support of the Motion For Relief From Automatic Stay Pursuant To 11 U.S.C § 362.

3. Attached hereto as **Exhibit 1** is a true and correct copy of the Petition For Instructions Regarding Distributions filed in Los Angeles Superior Court Case No. BP136769 on July 28, 2023.

4. Attached hereto as **Exhibit 2** is a true and correct copy of the Supplement To Petition For Instructions Regarding Distributions filed in Los Angeles Superior Court Case No. BP136769 on August 8, 2023.

5. Attached hereto as **Exhibit 3** is a true and correct copy of the Notice of Stay of Proceedings filed in Los Angeles Superior Court Case No. BP136769 on April 13, 2023.

6. Attached hereto as **Exhibit 4** is a true and correct copy of the Notice Of Ruling Re: Report And Recommendation Of The Court-Appointed Referee issued in Los Angeles Superior Court Case No. BP136769 on April 24, 2023.

7. Attached hereto as **Exhibit 5** is a true and correct copy of the Minute Order issued in Los Angeles Superior Court Case No. BP136769 on April 27, 2023 re the Fifth Amended Petition for Removal filed on March 8, 2019 by Norine Eve Menlo Winter and the Fifth Amended Petition for Removal filed March 8, 2019 by Franklin Menlo.

8. Attached hereto as **Exhibit 6** is a true and correct copy of the Notice of Motion And Motion of Petitioners for Order to Remove Freeze On Trust Accounts And Life Insurance Policies (sans exhibits) filed in Los Angeles Superior Court Case No. BP136769 on May 12, 2023.



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9. Attached hereto as **Exhibit 7** is a true and correct copy of the Reporter's Transcript of the hearing in Los Angeles Superior Court Case No. BP136769 on June 5, 2023.

10. Attached hereto as **Exhibit 8** is a true and correct copy of the Interim Order After Hearing issued in Los Angeles Superior Court Case No. BP136769 on June 5, 2023.

11. Attached hereto as **Exhibit 9** is a true and correct copy of the Declaration of Leslie Klein Re Claims Against "Unfrozen" Funds Held By Trustees of 24 Trusts filed in Los Angeles Superior Court Case No. BP136769 on June 28, 2023.

12. Attached hereto as **Exhibit 10** is a true and correct copy of the Response of Chapter 11 Trustee, Bradley D. Sharp, To The Declaration Of Leslie Klein Re: Claims Against Unfrozen Funds Held By Trustees of 24 Trusts filed in Los Angeles Superior Court Case No. BP136769 on July 6, 2023.

13. Attached hereto as **Exhibit 11** is a true and correct copy of the Declaration of Donald L. Saltzman In Opposition to Klein Declaration And In Opposition to Bankruptcy Trustee Response To Request For Order To Allow Disbursal of Trust Funds And Life Insurance Benefits to Beneficiaries filed in Los Angeles Superior Court Case No. BP136769 on July 7, 2023.

14. Attached hereto as **Exhibit 12** is a true and correct copy of the Declaration of Eric Olson In Reply To Declaration of Donald L. Saltzman filed in Los Angeles Superior Court Case No. BP136769 on July 9, 2023.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on August 14, 2023, at Los Angeles, California.

/s/ Alex M. Weingarten  
Alex M. Weingarten



## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
Willkie Farr & Gallagher LLP, 2029 Century Park East, Suite 3400, Los Angeles, California 90067

A true and correct copy of the foregoing document entitled: **NOTICE OF MOTION AND MOTION FOR RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. § 362 (with supporting declarations) (ACTION IN NONBANKRUPTCY FORUM)** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 08/14/2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:  
See Attached List.

☒ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (date) 08/14/2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Honorable Sandra R. Klein  
United States Bankruptcy Court Central District of California  
Edward R. Roybal Federal Building and Courthouse  
255 E. Temple Street, Suite 1582 / Courtroom 1575, Los Angeles, CA 90012

☒ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

<u>08/14/2023</u>	<u>Arkisa Ward</u>	<u>/s/ Arkisa Ward</u>
Date	Printed Name	Signature



**SERVICE LIST**

**TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

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6	Internal Revenue Service PO Box 7346 Philadelphia, PA 19101-7346	Toyota Lease Trust c/o Toyota Motor Credit Corporation PO Box 9013 Addison, TX 75001-9013
8	JPMorgan Chase Bank, N.A. s/b/m/t Chase Bank USA, N.A. c/o National Bankruptcy Services LLC PO Box 9013 Addison, TX 75001-9013	U.S. Bank National Association c/o Nationstar Mortgage LLC Attn: Bankruptcy Dept. PO Box 619096
11	Jacob Rummitz 315 N Martel Avenue Los Angeles, Ca 90036-2515	Wilmington Savings Fund Society, FSB d/b/a Robertson, Anschutz, Schneid, Crane & Partners 350 10th Avenue, Suite 1000 San Diego, CA 92101-8705
13	Jeffrey Siegel, Successor Trustee Of the Hubert Scott Trust c/o Oldman, Cooley, Sallus 16133 Ventura Blvd, Penthouse Ste Encino, CA 91436-2447	US Bank Trust, N.A., et al. Fay Servicing LLC PO Box 814609 Dallas, TX 75381-4609
17	Los Angeles County Treasurer/Tax Attn: Bankruptcy Unit PO Box 54110 Los Angeles, CA 90054-0110	MRC/United Wholesale M Attn: Bankruptcy PO BOX 619098 Dallas TX 75261
19	Leslie Klein & Associates, Inc. c/o Parker Milliken 555 Flower Street Los Angeles, CA 90071-2300	Fiore Racobs & Powers c/o Palm Springs Country Club HOA 6820 Indiana Ave, Ste 140 Riverside CA 92506
22	MRS/United Wholesale M Attn Bankruptcy PO Box 619098 Dallas, TX 75261-9098	Reem J Bello Goe Forsythe & Hodges LLP 17701 Cowan, Bldg. D Suite 210 Irvine, CA 92614
24	Sandra Layton 161 N Poinsettia Place Los Angeles, CA 90036-2805	Robert P Goe Goe Forsythe & Hodges LLP 17701 Cowan Street, Suite 210 Bldg D Irvine CA 92614
26	Selene Finance Attn Bankruptcy PO Box 8619 Philadelphia, PA 19101-8619	



**WILLKIE FARR & GALLAGHER LLP**

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2		
3	Theron S Covey 350 10th Ave. Suite 1000 San Diego, CA 92101	Chase Card Services Attn: Bankruptcy PO Box 15298 Wilmington, DE 19850
4		
5		
6	Dane W Exnowski McCalla Raymer Leibert Pierce, LLP 301 E. Ocean Blvd., Suite 1720 Long Beach, CA 90802	Leslie Klein & Associates, Inc. 515 South Figueroa Street 8th Floor Los Angeles, California 90071
7		
8		
9	Brandon J Iskander Goe Forsythe & Hodges LLP 17701 Cowan; Building D Suite 210 Irvine, CA 92614	Fay Servicing LLC Attn: Bankruptcy Dept PO BOX 809441 Chicago, IL 60680
10		
11		Leslie Klein, Debtor 322 N. June Street Los Angeles, CA 90001
12	United States Trustee (LA) 915 Wilshire Blvd, Ste. 1850 Los Angeles, CA 90017-3560	
13		Kenneth Miskin 411 W. Fourth Street, #7160 Santa Ana, CA 92701
14	Ron Maroko 915 Wilshire Blvd., Ste 1850 Los Angeles, CA 90017	
15		Jeffrey W. Dulberg Pachulski Stang Ziehl & Jones LLP 10100 Santa Monica Blvd, 13th Floor Los Angeles, CA 90067
16	Joshua L Scheer 85 Argonaut, Suite 202 Aliso Viejo, CA 92656	
17		John W. Lucas Pachulski Stang Ziehl & Jones LLP One Sansome Street, 34th Floor, Ste. 3430 San Francisco, CA 94104
18	Alan G Tippie Greenspoon Marder LLP 333 South Grand Avenue Suite 3400 Los Angeles, CA 90071	
19		Jeffrey P. Nolan Pachulski Stang Ziehl & Jones LLP 10100 Santa Monica Blvd, 13th Floor Los Angeles, CA 90067
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21	Michael L Wachtell Buchalter, A Professional Corporation 1000 Wilshire Blvd. Suite 1500 Los Angeles, CA 90210	Jeffrey N. Pomerantz Pachulski Stang Ziehl & Jones LLP 10100 Santa Monica Blvd, 13th Floor Los Angeles, CA 90067
22		
23		
24	John P. Ward Attlesey Storm, LLP 111 Pacifica, Suite 140 Irvine, CA 94618	Honorable Sandra R. Klein United States Bankruptcy Court Central District of California Edward R. Roybal Federal Building and Courthouse 255 E. Temple Street, Suite 1582 / Courtroom 1575 Los Angeles, CA 90012
25		
26		
27	Clarisse Young Shumaker Mallory, LLP 333 S. Hope Street 35th Floor Los Angeles, CA 90071	
28		



**PROOF OF SERVICE**

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Willkie Farr & Gallagher LLP, 2029 Century Park East, Suite 3400, Los Angeles, California.

On **August 15, 2023**, I served a copy ☒ / original ☐ of the foregoing document(s) described as **SECOND SUPPLEMENT TO PETITION FOR INSTRUCTIONS REGARDING DISTRIBUTIONS** on the interested parties in this action addressed as follows:

**SEE ATTACHED SERVICE LIST.**

☒ **BY ELECTRONIC SUBMISSION AND E-SERVICE VIA GREEN FILING:** I caused the above-entitled document(s) to be electronically filed and e-served through Green Filing to those parties on the Service List above. Upon completion of transmission of said document(s), a filing receipt is issued acknowledging receipt, filing, and service by Green Filing's system. A copy of Green Filing's receipt will be maintained with the original document(s) in our office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **August 15, 2023**, at Los Angeles, California.

  
Yumi Chung



**SERVICE LIST**

*In the Matter of Franklin Henry Menlo Irrevocable Trust Established March 1, 1983*  
Los Angeles County Superior Court, Case No. BP136769  
[Consolidated/Related to 24 Cases]

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Attorneys for Menlo Beneficiaries



# EXHIBIT 3



Electronically FILED by  
Superior Court of California,  
County of Los Angeles  
8/25/2023 4:58 PM  
David W. Slayton,  
Executive Officer/Clerk of Court,  
By A. Villarino, Deputy Clerk

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Attorneys for Petitioner  
CO-TRUSTEE JEFFREY WINTER

**SUPERIOR COURT OF CALIFORNIA**

**COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

In the Matter of

FRANKLIN HENRY MENLO  
IRREVOCABLE TRUST ESTABLISHED  
MARCH 1, 1983

LESLIE KLEIN, TRUSTEE,  
  
Respondent,

LES KLEIN & ASSOCIATES, INC.,  
  
Respondent.

CASE NO.: BP136769<sup>1</sup>  
[Consolidated/Related to 24 Cases]

Assigned for All Purposes to  
Hon. Ana Maria Luna, Dept. 3

**THIRD SUPPLEMENT TO PETITION FOR  
INSTRUCTIONS REGARDING  
DISTRIBUTIONS**

Date: August 18, 2023  
Time: 1:30 p.m.  
Dept.: 3

Action Filed: September 18, 2012

<sup>1</sup> Consolidated/Related to Case Nos.: BP139977; BP139978; BP139999; BP140000; BP140001; BP140002; BP140003; BP140004; BP140005; BP140007; BP140008; BP140009; BP140010; BP140011; BP140012; BP140013; BP140014; BP140015; BP140016; BP140017; BP140018; BP140019; BP140020; and BP154676.



Petitioner Jeffrey Winter (“Jeff”), as Co-Trustee of the Franklin Henry Menlo Irrevocable Trust Established March 1, 1983 (the “Trust”), hereby respectfully supplements his Petition For Instructions Regarding Distributions (“Petition”), filed on July 28, 2023 and joined by Co-Trustee Frank Menlo (“Frank” and collectively with Jeff, “Co-Trustees”), and alleges as follows:

Jeff (joined by Frank) files this Third Supplement To Petition For Instructions Regarding Distributions (“Third Supplement”) to provide documentary substantiation of the financial reserves (in the amount of \$2,000,000.00) set aside for the payment of Leslie Klein’s (“Klein”) various attorneys’ fees and costs requests should payment of some or all of these fees be awarded. The Court requested such substantiation at the hearing held on August 18, 2023. Attached hereto as **Exhibit 30** is a true and correct copy of a Merrill Lynch account statement showing a transfer of \$2,000,000.00 into Trust account “7HR-MENLO”.

**PRAYER FOR RELIEF**

WHEREFORE, Jeffrey Winter, as Co-Trustee of the Trust, prays for relief as follows:

1. For instructions confirming the Co-Trustees’ distribution payouts proposed herein for certain beneficiaries of the Trust; and
2. For such other and further relief as the Court deems just and proper.

Dated: August 25, 2023

**WILLKIE FARR & GALLAGHER LLP**

By: 

Alex M. Weingarten

Logan M. Elliott

Attorneys for Petitioner

CO-TRUSTEE JEFFREY WINTER



**VERIFICATION**

I am a Petitioner in this matter and a Co-Trustee of the Franklin Henry Menlo Irrevocable Trust Established March 1, 1983.

I have read the **THIRD SUPPLEMENT TO PETITION FOR INSTRUCTIONS RE DISTRIBUTIONS** and know its contents.

The matters stated in the foregoing document are true of my own knowledge, or I am informed and believe that such allegations are true, and make such allegations on the basis of my information and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on \_\_\_\_\_, at Los Angeles, California.

DocuSigned by:  
  
5E6847524EB0407...  
Jeffrey Winter



## Exhibit 30



## All Activity

All Activity Types

1 items - Last 30 Days - From 7/26/2023 to 8/25/2023 as of Close of Business 8/24/2023

Total Count: 1  
Total Amount: 2,000,000.00  
Pending Count: 0  
Pending Amount: 0.00  
Settled Count: 1  
Settled Amount: 2,000,000.00



Account / Nickname	Trade/Transaction Date	Settle Date	Type	Description	Symbol	Security #	CUSIP	Entry #	JE ID	SOL	Client Entered	Quantity	Price	Amount
7HR- MENL	08/24/2023	08/24/2023	⇄	Wire Transfer In WIRE TRF IN D5323604102 ORG=/237184820523 RAFAEL				1	419					2,000,000.00

Activity is shown in the currency of the account

Pending refunds are not reflected in your available balance. Once funds from the merchant are received, your available balance will be adjusted.

Pending Visa debit transaction(s): The amount may change when the transaction is finalized (i.e. gratuity).

### IMPORTANT DISCLOSURES

Merrill Lynch, Pierce, Fenner & Smith Incorporated (also referred to as "MLPF&S" or "Merrill") makes available certain investment products sponsored, managed, distributed or provided by companies that are affiliates of Bank of America Corporation ("BoFA Corp."). MLPF&S is a registered broker-dealer, registered investment adviser, Member SIPC, and a wholly owned subsidiary of BoFA Corp.

Merrill Lynch Life Agency Inc. ("MLLA") is a licensed insurance agency and a wholly owned subsidiary of BoFA Corp.

Trust and fiduciary services are provided by Bank of America, N.A., Member FDIC, and a wholly-owned subsidiary of BoFA Corp.

Banking products are provided by Bank of America, N.A., and affiliated banks, Members FDIC, and wholly owned subsidiaries of BoFA Corp.

Investment products offered through MLPF&S and insurance and annuity products offered through MLLA:

Are Not FDIC Insured	Are Not Bank Guaranteed	May Lose Value
Are Not Deposits	Are Not Insured by Any Federal Government Agency	Are Not a Condition to Any Banking Service or Activity

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Accounts included in this report: 7HR (CMA) "MENLO"

Report Created 11:23:35AM, August 25, 2023 for MENLO GRANDCHILDREN 1986 1P TR

For Informational Purposes Only - Account Statement is Official Record of Holdings, Balances and Security Values



**PROOF OF SERVICE**

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Willkie Farr & Gallagher LLP, 2029 Century Park East, Suite 3400, Los Angeles, California.

On **August 25, 2023**, I served a copy ☒ / original ☐ of the foregoing document(s) described as **THIRD SUPPLEMENT TO PETITION FOR INSTRUCTIONS REGARDING DISTRIBUTIONS** on the interested parties in this action addressed as follows:

**SEE ATTACHED SERVICE LIST.**

☒ **BY ELECTRONIC SUBMISSION AND E-SERVICE VIA GREEN FILING:** I caused the above-entitled document(s) to be electronically filed and e-served through Green Filing to those parties on the Service List above. Upon completion of transmission of said document(s), a filing receipt is issued acknowledging receipt, filing, and service by Green Filing's system. A copy of Green Filing's receipt will be maintained with the original document(s) in our office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **August 25, 2023**, at Los Angeles, California.

  
Yumi Chung



**SERVICE LIST**

*In the Matter of Franklin Henry Menlo Irrevocable Trust Established March 1, 1983*  
Los Angeles County Superior Court, Case No. BP136769  
[Consolidated/Related to 24 Cases]

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Attorneys for Bankruptcy Trustee,  
Bradley Sharp

***Via Personal Service and GreenFiling  
E-Service***



# EXHIBIT 4



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Probate Division  
Stanley Mosk Dept. - 3**

**BP136769**

**In re: MENLO, FRANKLIN HENRY IRREVOCABLE TRUST - TRUST**

**August 18, 2023  
1:30 PM**

Honorable Ana Maria Luna, Judge

Grace Woo, Judicial Assistant

---

**NATURE OF PROCEEDINGS:** Petition - Trust/Pursuant Prob Code Sec 17200 (Subsequent) filed on July 28, 2023 by Jeffrey Winter.

The following parties are present for the aforementioned proceeding:

Rafael Deutsch  
Leslie Klein  
Jeremy Winter  
Jeff Winter  
Daniel Winter via LACC  
Donald Lawrence Saltzman, Attorney  
Matthew Busch, Attorney  
Eric John Olson, Attorney  
Alex M Weingarten, Attorney  
Jeffrey P Nolan, Attorney via LACC  
Terrence S. Nunan, Attorney via LACC

The matter is called for hearing.

The Petition for Instructions filed 7/28/23 by successor co-trustee, Jeffrey Winter, is continued to September 15, 2023 at 10:30 a.m. in this department.

Petitioner shall deliver a hard copy of the Petition, and any and all supplements thereto, to the law offices of Parker, Milliken Clark, O'Hara and Samuelian and Buchalter no later than August 22, 2023 at 3:00 p.m.

Objections, if any to this Petition, are to be filed and served by September 5, 2023. Reply, if any, to be filed and served by September 11, 2023.

Counsel for the bankruptcy trustee (Pachulski, Stang, Ziehl & Jones, LLP) are to be included in the service of the Petition, Objections and/or Reply.

An Order to Show Cause re Production of any Writing that Substantiates a Claim to the Insurance Trust Proceeds Currently Held by American General and/or Lincoln National (as described in the Petition for Instructions) by Former Trustee, Leslie Klein, is set for the same date and time.



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Probate Division**

**Stanley Mosk Dept. - 3**

**BP136769**

**In re: MENLO, FRANKLIN HENRY IRREVOCABLE TRUST - TRUST**

**August 18, 2023**

**1:30 PM**

Notice of this OSC is given in open court to counsel for Leslie Klein (Attorneys Eric Olson and Terence Nunan) who accept notice in place of Mr. Klein as he left the courtroom prior to the court setting this OSC.

Over the objection of counsel for the bankruptcy trustee and as an interim order, the Court authorizes the sum of \$6,000,000.00 to be released by American General (policy #1) to the successor co-trustees, Franklin Menlo and Jeffrey Winter, forthwith. One-half of this amount (\$3,000,000.00) shall be used to satisfy a portion of the lines of credit as set forth in footnote 2 of the Petition for Instructions as the successor co-trustees deem appropriate. The other one-half (\$3,000,000.00) shall be distributed proportionally by the successor co-trustees to the named beneficiaries as set forth on page 6, line 17 to page 10, line 15 of this Petition.

At the request of counsel for the bankruptcy trustee, a stay on this interim order is granted until August 30, 2023 at 1:30 p.m.

A Status Conference as to this stay is set for August 30, 2023 at 1:30 p.m.